MONTANA LEGISLATIVE HISTORY

Chapter 455 1999

Bill H _____ S 251 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	3-22	✓ C	Hearing Date(s)	2-11	✓ C
	3-25	✓ C		2-12	✓ C
	_____	___ C		2-15	✓ C
	_____	___ C		_____	___ C
Date Out	_____	___ C			

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 2-15-99
BILL NO. SB 251

Amendments to Senate Bill No. 251
1st Reading Copy

Requested by Senator Mike Halligan

For the Senate Judiciary Committee

Prepared by Valencia Lane
February 1, 1999

1. Title, line 9.
Following: "61-8-410,"
Insert: "61-8-714,"

2. Page 3, line 22.
Insert: "Section 3. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense. (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 60 days and shall be punished by a fine of not less than $100 or more than $500. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(2) On a second conviction, the person shall be punished by a fine of not less than $300 or more than $500 and by imprisonment for not less than 7 days or more than 6 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. Three days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 3 days of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(3) On the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than $500 or more than $1,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1

year pending successful completion of a chemical dependency treatment program by the defendant."
{Internal References to 61-8-714:
ok 61-8-401 ok 61-8-401 ok 61-8-410 ok 61-8-442
ok 61-8-731 ok 61-8-732 ok 61-8-732 ok 61-8-732
ok 61-8-733 ok 61-8-734 ok 61-8-734 ok 61-8-734
ok 61-8-734 ok 61-8-734 ok61-8-734}"
Renumber: subsequent sections

3. Page 5, line 10.
Strike: "chemical dependency"
Following: "assessment"
Insert: ", education, and treatment"
Following: "(1)"
Strike: "(a)"

4. Page 5, line 11.
Strike: "Before a sentence is imposed under"
Insert: "In addition to the punishments provided in"

5. Page 5, line 12.
Following: "complete"
Insert: ":
(a)"

6. Page 5, line 13 through line 14.
Following: "assessment" on line 13
Strike: remainder of line 13 through "services" on line 14

7. Page 5, line 15.
Following: "~~both~~"
Insert: ";
(b) a chemical dependency education course; and
(c) on a second or subsequent conviction for a violation of 61-8-401 or 61-8-406 or as required by subsection (8) of this section, alcohol or drug treatment.
(2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.
(3) The chemical dependency assessment, the chemical dependency education course, and alcohol or drug treatment must be completed at a treatment program approved by the department of public health and human services and must be conducted by a certified chemical dependency counselor. The defendant may

attend the program of the defendant's choice as long as the program is approved as required by this subsection. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment.

(4)"

8. Page 5, line 16 through line 18.
Following: "both." on line 16
Strike: remainder of line 16 through "cost." on line 18

9. Page 5, line 19.
Following: "by a"
Insert: "certified chemical dependency counselor or a"

10. Page 5, line 20 through line 22.
Following: "services." on line 20
Strike: remainder of line 20 through "both." on line 22

11. Page 5, line 23 through line 29.
Strike: line 23 through "services." on line 29
Insert: "(5)"

12. Page 6, line 6.
Strike: "(c)"
Insert: "(6)"

13. Page 6, line 10.
Strike: "(d)"
Insert: "(7)"

14. Page 6, line 13.
Strike: "(2)"
Insert: "(8)"

15. Page 6, line 14.
Strike: "Upon"
Insert: "Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of 61-8-401 or 61-8-406 upon"

16. Page 6, line 14 through line 15.

Following: "finding" on line 14
Strike: remainder of line 14 through "report" on line 15

17. Page 6, line 17 through line 18.
Following: "services" on line 17
Strike: remainder of line 17 through "61-8-406" on line 18

18. Page 6, line 19 through line 23.
Strike: subsection (3)(a) in its entirety

19. Page 6, line 24.
Strike: "(b) (i)"
Insert: "(9) (a)"
Following: "conviction"
Insert: "or after treatment required under subsection (8)"

20. Page 6, line 25.
Strike: "(1)"
Insert: "(5)"

21. Page 6, line 27.
Strike: "(ii)"
Insert: "(b)"
Following: "subsection"
Strike: "(3)(b)(i)"
Insert: "(9)(a)"

22. Page 6, line 28.
Following: the first "sentence,"
Insert: "if any,"

- END -

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 2-15-99
BILL NO. SB 251

Amendments to Senate Bill No. 251
1st Reading Copy

Requested by Senator ~~Mike Halligan~~ LORENTZ Grosfield

For the Senate Judiciary Committee

Prepared by Valencia Lane
February 1, 1999

1. Title, line 4.
Following: "AUTHORITY"
Insert: ", IN ITS DISCRETION,"

2. Title, line 6 through line 9.
Following: "CONTENT;" on line 6
Strike: remainder of line 6 through "PROGRAMS" on line 9
Insert: "ALLOWING NONMANDATORY PORTIONS OF SENTENCES TO BE SUSPENDED FOR A PERIOD OF UP TO 1 YEAR PENDING CHEMICAL DEPENDENCY TREATMENT"

3. Title, line 9.
Following: "SECTIONS"
Strike: "61-5-208, 61-8-410, 61-8-731,"
Insert: "61-8-714 AND"

4. Title, line 10.
Following: "61-8-732,"
Strike: "AND 61-11-101,"

5. Page 1, line 14 through page 7, line 26.
Strike: everything after the enacting clause
Insert: **"Section 1.** Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense. (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 60 days and shall be punished by a fine of not less than $100 or more than $500. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year, pending successful completion of an alcohol or drug treatment program by the defendant.

(2) On a second conviction, the person shall be punished by a fine of not less than $300 or more than $500 and by imprisonment for not less than 7 days or more than 6 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. Three days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 3 days of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year, pending successful completion of an alcohol or drug treatment program by the defendant.

(3) On the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than $500 or more than $1,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year, pending successful completion of an alcohol or drug treatment program by the defendant."

{*Internal References to 61-8-714: ALL OK*

61-8-401 *61-8-401* *61-8-410* *61-8-442*
61-8-731 *61-8-732* *61-8-732* *61-8-732*
61-8-733 *61-8-734* *61-8-734* *61-8-734*
61-8-734 *61-8-734* *61-8-734*}"

Insert: "**Section 2.** Section 61-8-732, MCA, is amended to read:

"**61-8-732. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- alcohol information course required.** (1) ~~(a)~~ In addition to the punishments provided in 61-8-714, 61-8-722, and 61-8-731, regardless of disposition, a defendant convicted of a violation of 61-8-401 or 61-8-406 shall complete:

(a) a chemical dependency assessment;

(b) an alcohol information course; and

(c) on a second or subsequent conviction for a violation of 61-8-401 or 61-8-406 or as required by subsection (4), alcohol or drug treatment.

(2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

(3) (a) The alcohol information course must be completed at an alcohol treatment program approved by the department of public health and human services, which may include alcohol or drug treatment, or both.

(b) As long as the alcohol information course is approved as provided in this section and the treatment is provided by a certified chemical dependency counselor, the defendant may attend the information course and treatment program of the defendant's

choice. The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug problem, or both, as determined by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

(c) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in an alcohol information course or treatment program. If the defendant fails to attend the information course or treatment program, the counselor shall notify the court of the failure.

(d) A court or counselor may not require attendance at a self-help program other than at an "open meeting" as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

~~(2)~~ (4) Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of 61-8-401 or 61-8-406 upon a finding of chemical dependency made by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

~~(3) (a) On conviction of a second or subsequent offense under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, in addition to the punishment provided in 61-8-714 or 61-8-722, regardless of disposition, the defendant shall complete an alcohol information course at an alcohol treatment program approved by the department of public health and human services, which must include alcohol or drug treatment, or both.~~

~~(b) (i)~~ (5)(a) On a second or subsequent conviction, the treatment program provided for in subsection ~~(1)~~ (3) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

~~(ii)~~ (b) If a defendant fails to comply with the monitoring program imposed under subsection ~~(3)(b)(i)~~ (5)(a), the court shall revoke the suspended sentence, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 6 months."

{*Internal References to 61-8-732:*
*ok 61-8-401** *ok 61-8-401** *ok 61-8-406** *ok 61-8-731*
ok 61-11-101}"

- END -

MONTANA SENATE
1999 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL

DATE 2-15-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. SUE BARTLETT			✓
SEN. STEVE DOHERTY	✓		
SEN. DUANE GRIMES	✓		
SEN. MIKE HALLIGAN	✓		
SEN. RIC HOLDEN	✓		
SEN. REINY JABS	✓		
SEN. WALT MC NUTT	✓		
SEN. AL BISHOP,VICE CHAIRMAN	✓		
SEN. LORENTS GROSFIELD, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** report that **Senate Bill 251** (first reading copy -- white) **do pass as amended.**

Signed: _____
Senator Lorents Grosfield, Chair

And, that such amendments read:

1. Title, line 9.
Following: "61-8-410,"
Insert: "61-8-714,"

2. Page 3, line 22.
Insert: "Section 3. Section 61-8-714, MCA, is amended to read:
"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense. (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 60 days and shall be punished by a fine of not less than $100 or more than $500. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(2) On a second conviction, the person shall be punished by a fine of not less than $300 or more than $500 and by imprisonment for not less than 7 days or more than 6 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. Three days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of the

Committee Vote:
Yes 8, No 0.

imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 3 days of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.

(3) On the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than $500 or more than $1,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the defendant.""

Renumber: subsequent sections

3. Page 5, line 10.
Strike: "**chemical dependency**"
Following: "**assessment**"
Insert: ", education, and treatment"
Following: "(1)"
Strike: "(a)"

4. Page 5, line 11.
Strike: "Before a sentence is imposed under"
Insert: "In addition to the punishments provided in"

5. Page 5, line 12.
Following: "complete"
Insert: ":
(a)"

6. Page 5, line 13 through line 14.
Following: "assessment" on line 13
Strike: remainder of line 13 through "services" on line 14

7. Page 5, line 15.
Following: "~~both~~"
Strike: "."
Insert: ";
(b) a chemical dependency education course; and
(c) on a second or subsequent conviction for a violation of 61-8-401 or 61-8-406 or as required by subsection (8) of this section, alcohol or drug treatment.
(2) The sentencing judge may, in the judge's discretion,

require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

(3) The chemical dependency assessment, the chemical dependency education course, and alcohol or drug treatment must be completed at a treatment program approved by the department of public health and human services and must be conducted by a certified chemical dependency counselor. The defendant may attend the program of the defendant's choice as long as the program is approved as required by this subsection. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment.

(4)"

8. Page 5, line 16 through line 18.
Following: "both." on line 16
Strike: remainder of line 16 through "cost." on line 18

9. Page 5, line 19.
Following: "by a"
Insert: "certified chemical dependency counselor or a"

10. Page 5, line 20 through line 22.
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11. Page 5, line 23 through line 29.
Strike: line 23 through "services." on line 29
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Insert: "Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of 61-8-401 or 61-8-406 upon"

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Following: "finding" on line 14
Strike: remainder of line 14 through "report" on line 15

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Following: "services" on line 17
Strike: remainder of line 17 through "61-8-406" on line 18

18. Page 6, line 19 through line 23.
Strike: subsection (3)(a) in its entirety

19. Page 6, line 24.
Strike: "(b) (i)"
Insert: "(9) (a)"
Following: "conviction"
Insert: "or after treatment required under subsection (8)"

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21. Page 6, line 27.
Strike: "(ii)"
Insert: "(b)"
Following: "subsection"
Strike: "(3)(b)(i)"
Insert: "(9)(a)"

22. Page 6, line 28.
Following: the first "sentence,"
Insert: "if any,"

- END -

MONTANA SENATE
1999 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL

DATE 2-15-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. SUE BARTLETT			✓
SEN. STEVE DOHERTY	✓		
SEN. DUANE GRIMES	✓		
SEN. MIKE HALLIGAN	✓		
SEN. RIC HOLDEN	✓		
SEN. REINY JABS	✓		
SEN. WALT MC NUTT	✓		
SEN. AL BISHOP,VICE CHAIRMAN	✓		
SEN. LORENTS GROSFIELD, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** report that **Senate Bill 251** (first reading copy -- white) **do pass as amended.**

Signed: _____
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And, that such amendments read:

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Committee Vote:
Yes 8, No 0.

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Renumber: subsequent sections

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(3) The chemical dependency assessment, the chemical dependency education course, and alcohol or drug treatment must be completed at a treatment program approved by the department of public health and human services and must be conducted by a certified chemical dependency counselor. The defendant may attend the program of the defendant's choice as long as the program is approved as required by this subsection. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment.

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22. Page 6, line 28.
Following: the first "sentence,"
Insert: "if any,"

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK**, on March 22, 1999 at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Diana Wyatt, Vice Chairman (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 251, SB 372, SB 486, 3/15/1999

Executive Action: SB 326-Tabled, SB 232-Be Concurred in as amended, SB 404-Be Concurred in, SB 416-Be Concurred in as amended.

HEARING ON SB 251

Sponsor:

Senator Halligan presented SB 251.
{Tape : 1; Side : A; Approx. Time Counter : 32 - 54}

Proponents:

Joan Cassidy, Montana Addiction Services
{Tape : 1; Side : A; Approx. Time Counter : 54 - 130}
EXHIBIT(1)
Robert Throssell, Montana Magistrates Association
{Tape : 1; Side : A; Approx. Time Counter : 130 - 160}
Candace Payne, Rimrock Foundation
{Tape : 1; Side : A; Approx. Time Counter : 160 - 171}
Brenda Nordlund, Dept. of Justice
{Tape : 1; Side : A; Approx. Time Counter : 171 - 188}
Charles Brooks, DUI Task Force
{Tape : 1; Side : A; Approx. Time Counter : 188 - 207}

Opponents:

None
Informational Testimony:

None
Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 207 - 412}

Closing by Sponsor:

Senator Halligan made closing statements.
{Tape : 1; Side : A; Approx. Time Counter : 412 - 451}

HEARING ON SB 372

Sponsor:

Senator Halligan presented SB 372.
{Tape : 1; Side : B; Approx. Time Counter : 0 - 37}

Amendments to Senate Bill No. 251
3rd Reading Copy

Requested by Senator Mike Halligan

For the House Judiciary Committee

Prepared by Valencia Lane
March 10, 1999 (4:36PM)

1. Title, line 9.
Following: "PROGRAMS;"
Insert: "ALLOWING NONMANDATORY PORTIONS OF SENTENCES TO BE SUSPENDED FOR A PERIOD OF UP TO 6 MONTHS PENDING CHEMICAL DEPENDENCY TREATMENT;"

2. Page 4, line 1.
Page 4, line 9.
Page 4, line 16
Strike: "1 year"
Insert: "6 months"

3. Page 6, line 14.
Strike: "ALCOHOL OR DRUG"
Insert: "chemical dependency"

4. Page 6, line 19.
Following: "ASSESSMENT"
Strike: ","
Insert: "and"

5. Page 6, line 19 through line 20.
Following: "COURSE" on line 19
Strike: remainder of line 19 through the first "TREATMENT" on line 20

6. Page 6, line 22.
Following: "ATTEND"
Strike: "THE"
Insert: "a treatment"

7. Page 6, line 22 through line 23.
Following: "AS THE" on line 22
Strike: remainder of line 22 through "SUBSECTION" on line 23

Insert: "treatment services are provided by a certified chemical dependency counselor"

8. Page 7, line 24.
Strike: "ALCOHOL OR DRUG"
Insert: "chemical dependency"

9. Page 8, line 5 through line 6.
Following: "conviction" on line 5
Strike: remainder of line 5 through "(8)" on line 6

- END -

HOUSE OF REPRESENTATIVE
ROLL CALL

JUDICIARY COMMITTEE

DATE 3/22/09

NAME	PRESENT	ABSENT	EXCUSED
Robert C. Clark, chair			
Dan McGee, vice chair			
Diana Wyatt, vice chair			
Chris Ahner			
Shiell Anderson			
Paul Clark			
Aubyn A. Curtiss			
Bill Eggers			
Tom Facey			
Steven Gallus			
Gail Gutsche			
Joan Hurdle			
Rick Jore			
Sam Kitzenberg			
Brad Molnar			
Mark Noenning			
Jim Shockley			
Loren Soft			
Carol Williams			
Cindy Younkin			

3/3

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

HOUSE JUDICIARY COMMITTEE

DATE 3/22/99

BILL NO. SB 251 SPONSOR(S) Mike Halligan

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)
(PLEASE IDENTIFY TYPE OF VISITOR)

PLEASE PRINT

TYPE	NAME	ADDRESS	REPRESENTING
DUI	Joan Cassidy	Butte 125 W Granite St	MT Addict. Services Assn
P	[illegible]		
I	KEN MORDAN	DPHHS-Helena	DPHHS-AMDD
P	Chuck Brooks	DUI Task	DUI Task Force
P	Brenda Nordlund		Justice
P	ROBERT THROSSELL	MT MAGISTRATES ASSN	→
P	CANDACE PAYNE	Helena	Rimrock Foundation

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON SB 153

Motion: REP. YOUNKIN moved that SB 153 BE CONCURRED IN.

EXHIBIT(5)

Motion/Vote: REP. SHOCKLEY moved that SB 153 BE AMENDED. Motion carried 18-2 with Jore and McGee voting no.
Motion/Vote: REP. YOUNKIN moved that SB 153 BE CONCURRED IN AS AMENDED. Motion carried 16-4 with R. Clark, Curtiss, Jore, and McGee voting no on a voice vote.
{Tape : 1; Side : B; Approx. Time Counter : 346 - 550}
{Tape : 2; Side : A; Approx. Time Counter : 0 - 73}

EXECUTIVE ACTION ON SB 251

Motion: REP. SHOCKLEY moved that SB 251 BE CONCURRED IN.
Motion/Vote: REP. WILLIAMS moved that SB 251 BE AMENDED. Motion carried 19-1 with Jore voting no.
Motion/Vote: REP. GALLUS moved that SB 251 BE CONCURRED IN AS AMENDED. Motion carried 19-1 with Jore voting no.
{Tape : 2; Side : A; Approx. Time Counter : 73 - 150}

EXECUTIVE ACTION ON SB 236

Motion: REP. ANDERSON moved that SB 236 BE CONCURRED IN.
Motion: REP. JORE moved that SB 236 BE AMENDED.
Substitute Motion/Vote: REP. YOUNKIN made a substitute motion SB 236-AMENDMENT. Substitute motion failed 7-13 with Anderson, P. Clark, Curtiss, Eggers, Facey, Gutsche, Hurdle, Jore, Kitzenberg, McGee, Wyatt, Molnar, and Soft voting no.

(returned back to the JORE amendment)

Jore AMENDMENT failed on a voice vote.
Motion/Vote: REP. ANDERSON moved that SB 236 BE CONCURRED IN. Motion carried 17-3 with R. Clark, Curtiss, and Jore voting no.
{Tape : 2; Side : A; Approx. Time Counter : 150 - 550}
{Tape : 2; Side : B; Approx. Time Counter : 0 - 133}

EXECUTIVE ACTION ON SB 257

Motion: REP. YOUNKIN moved that SB 257 BE CONCURRED IN.
Motion/Vote: REP. SHOCKLEY moved that SB 257 BE AMENDED. Motion failed 1-19 on a voice vote.

HOUSE OF REPRESENTATIVE
ROLL CALL

JUDICIARY COMMITTEE

DATE 3/25/99

NAME	PRESENT	ABSENT	EXCUSED
Robert C. Clark, chair	✓		
Dan McGee, vice chair	✓		
Diana Wyatt, vice chair	✓		
Chris Ahner	✓		
Shiell Anderson	✓		
Paul Clark	✓		
Aubyn A. Curtiss	✓		
Bill Eggers			✓
Tom Facey	✓		
Steven Gallus	✓		
Gail Gutsche	✓		
Joan Hurdle	✓		
Rick Jore	✓		
Sam Kitzenberg	✓		
Brad Molnar	✓		
Mark Noenning	✓		
Jim Shockley	✓		
Loren Soft	✓		
Carol Williams	✓		
Cindy Younkin	✓		

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** report that **Senate Bill 251** (third reading copy -- blue) be **concurred in as amended.**

Signed: Robert Bob Clark
Representative Robert C. Clark, Chair

To be carried by Representative Jim Shockley

And, that such amendments read:

1. Title, line 9.
Following: "PROGRAMS;"
Insert: "ALLOWING NONMANDATORY PORTIONS OF SENTENCES TO BE SUSPENDED FOR A PERIOD OF UP TO 6 MONTHS PENDING CHEMICAL DEPENDENCY TREATMENT;"

2. Page 3, line 26.
Strike: "60 days"
Insert: "6 months"

3. Page 4, line 9.
Strike: "1 year"
Insert: "6 months"

4. Page 6, line 14.
Strike: "ALCOHOL OR DRUG"
Insert: "chemical dependency"

5. Page 6, line 19.
Following: "ASSESSMENT"
Strike: ","
Insert: "and"

Committee Vote:
Yes 19, No 1.

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3/25
JMR

1/04	Referred to Judiciary		
1/04	Fiscal Note Requested		
1/11	Fiscal Note Received		
1/12	Fiscal Note Printed		
1/12	Hearing		
1/19	Committee Executive Action--Bill Passed as Amended	17	2
1/20	Committee Report--Bill Passed as Amended		
1/23	2nd Reading Passed	94	5
1/23	Rereferred to Appropriations		
2/02	Hearing		
2/16	Committee Executive Action--Bill Passed as Amended	18	0
2/17	Committee Report--Bill Passed as Amended		
2/19	Revised Fiscal Note Requested		
2/19	Revised Fiscal Note Received		
2/19	Revised Fiscal Note Printed		
2/19	2nd Reading Passed	100	0
2/20	3rd Reading Passed	99	0
	Transmitted to Senate		
2/22	Referred to Judiciary		
3/12	Hearing		
3/24	Committee Executive Action--Bill Concurred as Amended	8	0
3/24	Committee Report--Bill Concurred as Amended		
3/25	Taken from 2nd Reading; Rereferred to Finance and Claims	50	0
4/07	Hearing		
4/08	Committee Executive Action--Bill Concurred	18	0
4/08	Committee Report--Bill Concurred		
4/09	2nd Reading Concurred	49	0
4/10	3rd Reading Concurred	50	0
	Returned to House with Amendments		
4/15	2nd Reading Senate Amendments Concurred	97	1
4/16	3rd Reading Passed as Amended by Senate	93	5
4/16	Sent to Enrolling		
4/19	Returned from Enrolling		
4/20	Signed by Speaker		
4/21	Signed by President		
4/22	Transmitted to Governor		
4/28	Signed by Governor		
4/29	Chapter Number Assigned		
	Chapter Number 505		
	Effective Date: 4/28/1999 - All Sections		

HB 116 Introduced by McGee *LC0242 Drafter: Lane*

Revise the Penalties for Fourth Offense DUI and Driving with Excessive Alcohol Concentration;...

By Request of Correctional Standards and Oversight Committee

9/24	Fiscal Note Needed
12/21	Introduced
1/04	1st Reading
1/04	Referred to Judiciary
1/04	Fiscal Note Requested
1/08	Fiscal Note Received
1/11	Fiscal Note Signed
1/12	Fiscal Note Printed

1/12	Hearing		
1/15	Committee Executive Action--Bill Passed as Amended	18	2
1/16	Committee Report--Bill Passed as Amended		
1/23	2nd Reading Passed as Amended	85	15
1/26	3rd Reading Passed	84	15
	Transmitted to Senate		
1/27	Referred to Judiciary		
3/03	Hearing		
3/04	Committee Executive Action--Bill Concurred as Amended	7	0
3/04	Committee Report--Bill Concurred as Amended		
3/05	2nd Reading Concurred	50	0
3/06	3rd Reading Concurred	47	1
	Returned to House with Amendments		
4/09	2nd Reading Senate Amendments Concurred	84	11
4/10	3rd Reading Passed as Amended by Senate	87	10
4/10	Sent to Enrolling		
4/12	Returned from Enrolling		
4/13	Signed by Speaker		
4/14	Signed by President		
4/15	Transmitted to Governor		
4/21	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 391		
	Effective Date: 10/01/1999 - All Sections		

HB 117 Introduced by Ohs *LC0012 Drafter: Higgins*

Statutorily Authorize the Montana Consensus Council;...

12/21	Introduced
1/04	1st Reading
1/04	Referred to State Administration
1/04	Fiscal Note Requested
1/06	Fiscal Note Received
1/07	Fiscal Note Signed
1/07	Fiscal Note Printed
1/19	Hearing
2/04	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

HB 118 Introduced by Mood *LC0113 Drafter: Niss*

Revise Statutes Governing the Teachers' Retirement System to Comply with the Requirements of the Internal Revenue Code for a Qualified Governmental Retirement Plan;...

By Request of Teachers' Retirement Board

12/21	Introduced
1/04	1st Reading
1/04	Referred to State Administration
1/04	Fiscal Note Requested
1/08	Fiscal Note Received
1/08	Fiscal Note Signed
1/08	Fiscal Note Printed
1/15	Hearing

Senate BILL NO. 251

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A COURT'S AUTHORITY TO REQUIRE AN ASSESSMENT OF CHEMICAL DEPENDENCY PRIOR TO SENTENCING A PERSON FOR DRIVING UNDER THE INFLUENCE OR WITH AN ILLEGAL BLOOD ALCOHOL CONTENT; CLARIFYING THAT AN ASSESSMENT OF CHEMICAL DEPENDENCY IS SEPARATE FROM CHEMICAL DEPENDENCY EDUCATION OR TREATMENT; PROVIDING FOR CONSISTENCY OF TERMS USED TO DESCRIBE ASSESSMENT, EDUCATION, AND TREATMENT PROGRAMS; AND AMENDING SECTIONS 61-5-208, 61-8-410, 61-8-731, 61-8-732, AND 61-11-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) A person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored unless the revocation was for a cause ~~which~~ that has been removed. After the expiration of the period of the revocation or suspension, the person may ~~make application~~ apply for a new license or endorsement as provided by law, but the department may not issue a new license or endorsement unless ~~and until~~ it is satisfied, after investigation of the driving ability of the person and upon a showing by its records or other sufficient evidence, that the person is eligible to be licensed to drive in Montana. ~~When any~~ If a person is convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent

offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year, except that if the 1-year period passes and the person has not completed ~~an alcohol information~~ a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license revocation remains in effect until the course, treatment, or both, are completed.

(3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with ~~any~~ an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension or revocation of a person who has been convicted of a violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension or revocation has expired and any required ~~alcohol information~~ chemical dependency education course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the ignition interlock restriction by, including but not limited to, operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension or revocation for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension or revocation has been reinstated ~~due to~~ because of violation of an ignition interlock restriction.

(4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection (2).

(5) The period of revocation for ~~any~~ a person convicted of any offense ~~which~~ that makes mandatory the revocation of the driver's license commences from the date of conviction or forfeiture of bail.

(6) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-811 and subsection (2) of this section."

Section 2. Section 61-8-410, MCA, is amended to read:

"**61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more.** (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or

more to drive or be in actual physical control of a vehicle upon ways of this state open to the public. Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than $100 or more than $500.

(3) Upon a second conviction under this section, a person shall be punished by a fine of not less than $200 or more than $500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than $300 or more than $500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) the person shall comply with the ~~alcohol information~~ chemical dependency education course and ~~alcohol and drug~~ chemical dependency treatment provisions in ~~61-8-714~~ 61-8-732 as ordered by the court; and

(b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted or probationary driver's license may not be issued during the suspension period until the person has paid a license reinstatement fee in accordance with 61-2-107 and, if the person was under the age of 18 at the time of the offense, has completed at least 30 days of the suspension period.

(6) A conviction under this section may not be counted as a prior conviction under 61-8-401 or 61-8-406."

Section 3. Section 61-8-731, MCA, is amended to read:

"**61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense.** (1) On the fourth or subsequent conviction under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, the person is guilty of a felony and shall be punished by:

(a) imprisonment for a term of not less than 6 months or more than 13 months, the imposition or execution of which may not be suspended, and during which the person is not eligible for parole;

(b) probation for a term of not less than 1 year or more than 4 years; and

(c) a fine of not less than $1,000 or more than $10,000.

(2) The court shall, subject to sentencing restrictions:

(a) specify one of the following facilities as the initial place in which the term of imprisonment must be served:

(i) a state prison;

(ii) a regional correctional facility;

(iii) a county jail;

(iv) a boot camp, provided the prior approval of the department of corrections has been obtained; or

(v) a prerelease center, provided the prior approval of the department of corrections has been obtained; or

(b) sentence the person to the department of corrections for placement in an appropriate correctional institution or program; and

(c) order a person who is financially able to pay the costs of imprisonment and probation under this section ~~and of the information course and treatment under 61-8-732~~.

(3) The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include:

(a) payment of a fine as provided in 46-18-231;

(b) payment of costs as provided in 46-18-232 and 46-18-233;

(c) payment of costs of court-appointed counsel as provided in 46-8-113;

(d) community service;

(e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society;

(f) treatment in a state-approved public or private treatment facility; or

(g) any combination of the restrictions or conditions listed in subsections (3)(a) through (3)(f).

(4) (a) Following initial placement of a defendant in a boot camp or a prerelease center under subsection (2)(a), the department of corrections may, at its discretion, place the offender in another facility or program.

(b) The department of corrections may order all or any portion of the term of probation to be served under intensive supervision. The provisions of Title 46, chapter 23, part 10, relating to probation,

apply to the probation.

(5) If a violation of the restrictions or conditions of the probation is established, the court may continue the period of probation or may require the defendant to serve the remainder of the probation sentence in one of the facilities set forth in subsection (2)(a) or (2)(b). The court may credit the remainder of the probation or the time to be served in a facility set forth in subsection (2)(a) or (2)(b) with all or part of the time already served on probation."

Section 4. Section 61-8-732, MCA, is amended to read:

"61-8-732. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- ~~alcohol information course~~ chemical dependency assessment required. (1) (a) ~~In addition to the punishments provided in~~ Before a sentence is imposed under 61-8-714, 61-8-722, and 61-8-731, regardless of disposition, a defendant convicted of a violation of 61-8-401 or 61-8-406 shall complete ~~an alcohol information course at an alcohol treatment~~ a chemical dependency assessment provided by a program approved by the department of public health and human services~~, which may include alcohol or drug treatment, or both~~. The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. The defendant shall pay the cost of the assessment, and the department of public health and human services shall adopt rules pertaining to the payment of the cost. A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a program approved by the department of public health and human services. After reviewing the assessment and considering the mandatory treatment requirements in this section, the court shall sentence the defendant to a chemical dependency education course, treatment, or both.

(b) As long as the ~~alcohol information course is~~ chemical dependency assessment is obtained from a program that has been approved as provided in this section ~~and the treatment is provided by a certified chemical dependency counselor~~, the defendant may attend the ~~information course and treatment~~ assessment program of the defendant's choice. If chemical dependency education, treatment, or both, are ordered by the court, the defendant may attend the program of the defendant's choice if the education, treatment, or both, are provided by a certified chemical dependency counselor pursuant to a program approved by the department of public health and human services. The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug

problem, or both, as determined by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

(c) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in ~~an alcohol information~~ a chemical dependency education course or treatment program. If the defendant fails to attend the ~~information~~ education course or treatment program, the counselor shall notify the court of the failure.

(d) A court or counselor may not require attendance at a self-help program other than at an "open meeting", as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

(2) ~~Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of 61-8-401 or 61-8-406 upon~~ Upon a finding of the sentencing court that the defendant is chemically dependent, based upon a report of chemical dependency made by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services, alcohol or drug treatment, or both, must be ordered by the court for a first time offender convicted of a violation of 61-8-401 or 61-8-406.

(3) (a) On conviction of a second or subsequent offense under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, in addition to the punishment provided in 61-8-714 or 61-8-722, regardless of disposition, the defendant shall complete ~~an alcohol information~~ a chemical dependency education course ~~at an alcohol~~ and treatment program approved by the department of public health and human services, which must include alcohol or drug treatment, or both.

(b) (i) On a second or subsequent conviction, the treatment program provided for in subsection (1) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

(ii) If a defendant fails to comply with the monitoring program imposed under subsection (3)(b)(i), the court shall revoke the suspended sentence, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 6 months."

Section 5. Section 61-11-101, MCA, is amended to read:

"61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) ~~Whenever any~~ If a person is convicted of ~~any~~ an offense for which chapter 5 makes mandatory the suspension or revocation of the driver's license of the person by the department, the court in which the conviction ~~is had~~ occurs shall require the surrender to it of all driver's licenses then held by the convicted person ~~convicted~~. The court shall, within 5 days, forward the license and a record of the conviction to the department ~~and at the same time forward a record of the conviction to the department, providing that if~~. If the person does not possess a driver's license, the court shall indicate that fact in its report to the department.

(2) ~~Every~~ A court having jurisdiction over offenses committed under ~~any act~~ a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways shall forward~~, within 5 days,~~ a record of the conviction or forfeiture to the department ~~a record of the~~ within 5 days after a conviction or a forfeiture of bail~~,~~ that is not vacated, ~~of any person in the court for a violation of any motor vehicle laws, other than regulations governing~~ except for a conviction or a forfeiture of bail for a standing or parking statute or ordinance, and may recommend the suspension of the driver's license of the convicted person ~~convicted~~. The court may also recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete ~~an alcohol information~~ a chemical dependency education course, treatment, or both, as ~~provided in~~ ordered by the court under 61-8-732. The department shall issue a restricted probationary license unless the person is not entitled to a Montana driver's license. Upon issuance of a probationary license, the licensee is subject to the restrictions ~~set forth~~ and may not operate a vehicle in violation of ~~those~~ the restrictions.

(3) ~~Any~~ A court or other agency of this state~~,~~ or of a subdivision of the state~~,~~ that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report ~~the~~ an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department."

- END -

SB 251 SPONSOR: Halligan, Mike SHORT TITLE: Clarify assessment of chemical dependency prior to sentencing of DUI
REFERRED ON: 01/21/1999 HEARD ON: 02/11/1999 (S) Discussed in Committee ON: 02/12/1999
EXECUTIVE ACTION: 02/15/1999 Bill Passed as Amended -- VOTE: 8 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 257 SPONSOR: Grimes, Duane SHORT TITLE: Revise sex offender laws
REFERRED ON: 01/21/1999 HEARD ON: 01/28/1999
EXECUTIVE ACTION: 02/02/1999 Bill Passed -- VOTE: 8 - 0
FINAL DISPOSITION 04/12/1999 Chapter Number Assigned

SB 258 SPONSOR: Grimes, Duane SHORT TITLE: Revise domestic abuse laws
REFERRED ON: 01/21/1999 HEARD ON: 02/01/1999
EXECUTIVE ACTION: 02/05/1999 Bill Passed as Amended -- VOTE: 9 - 0
FINAL DISPOSITION 04/16/1999 Chapter Number Assigned

SB 259 SPONSOR: Grimes, Duane SHORT TITLE: Submit continued funding for domestic abuse programs to electors
REFERRED ON: 01/21/1999 HEARD ON: 01/26/1999
EXECUTIVE ACTION: 01/26/1999 Bill Passed -- VOTE: 6 - 0
FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee

SB 273 SPONSOR: Jabs, Reiny SHORT TITLE: Create 22nd judicial district & add judge to 11th & 20th districts
REFERRED ON: 01/23/1999 HEARD ON: 02/03/1999
EXECUTIVE ACTION: 02/05/1999 Bill Passed -- VOTE: 9 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 303 SPONSOR: Thomas, Fred SHORT TITLE: Place hospital costs ahead of attorney fees in work comp cases
REFERRED ON: 01/27/1999 HEARD ON: 02/03/1999
REFERRED ON: 02/16/1999
EXECUTIVE ACTION: 02/12/1999 Bill Passed as Amended -- VOTE: 8 - 1
TABLED ON: 02/17/1999
FINAL DISPOSITION 03/01/1999 (S) Missed Deadline for General Bill Transmittal

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HEARING ON SB 251

Sponsor: SEN. MIKE HALLIGAN, SD 34, Missoula

Proponents: Harold Hansen, Chairman of the State DUI Task Force
Pat Sandon, Administration of the Transportation Planning Division, Dept. of Transportation

Opponents: Robert Throssell, Montana Magistrates Association
Candace Payne, Rimrock Foundation
Mike Ruppert, Executive Director of the Boyd Andrew Chemical Dependency Care Center
Joan Cassidy, President of Montana Addiction Service Providers
Chris Johnson, Acting Director of Lake County Chemical Dependency Program

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 34, Missoula, explained that the DUI task force was appointed several years ago. Senate Bill 251 has been prepared by this task force, but there is controversy involved. The bill needs to be amended. The main issue is that when someone is charged with a DUI and pleads guilty, it is to be mandatory that before the court issues a sentence, the individual must be assessed to see if he or she has an alcohol problem. If inpatient treatment is necessary, there is a separate hearing. There are issues with respect to the assessment, pre and post sentencing. The concerns include the actual alcohol education program as opposed to a chemical dependency assessment. They want to make sure that the judges have the best possible information when sentencing.

{Tape : 2; Side : A; Approx. Time Counter : 10.29}

Proponents' Testimony:

Harold Hansen, Chairman of the State DUI Task Force, maintained that the Task Force had no objections to the recommendations of the opponents with the exception of two items. The first involves extending the ability of the lower court to have jurisdiction for up to one year for first offenders. The reason is that under current law, the jurisdiction extends for six months. Justice of the Peace in Yellowstone County, Janet Eschler, tried to go around the existing law. In Yellowstone County, approximately half of first offenders neither report for treatment nor do they complete it and in six months their drivers

license is reinstated. Extending the jurisdiction to one year seems to be reasonable and sensible and takes the joke out of the first offense. People who have addictive problems need treatment or they will be repeat offenders.

The second area of concern is the ability of the lower court to ask for an assessment prior to sentencing. Judge Eschler tried to accomplish this in several different ways. There were three separate cases that went to the Montana Supreme Court and each time the Court held that her actions were not under existing law. The judge needs factual information before setting the sentence. The Supreme Court cases upheld that when the judge sentences an offender to any part of a sentence, this is a one time process. If an offender is sentenced to have the assessment, this would be the sentence. Under this proposal, if the assessment is ordered before sentencing, then at the time of sentencing the court would then order the course of treatment and there would only be one assessment. Many of the lower court judges have expressed a high level of frustration with the need for a full year jurisdiction over first offenders and the ability to ask for the assessment before they render judgment.

Pat Sandon, Administration of the Transportation Planning Division, Department of Transportation, related that highway traffic safety is one of their programs and they work very closely with the State DUI Task Force. They support the bill and believe the judges should have the option of conducting assessments before sentencing a DUI offender. They also believe that the court should have extended jurisdiction.

Opponents' Testimony:

Robert Throssell, Montana Magistrates Association, explained that the magistrates are concerned about making the assessment option for sentencing. They see first time offenders who do not have any other criminal records and the individual doesn't appear to be the type where a more detailed assessment is necessary before sentencing. Once the sentencing takes place, the fine can be assessed and the person has already spent their time in jail. They do like the idea of making the assessment optional in that they see people who do need more attention. If this amendment is adopted, that area of concern would be withdrawn.

The other area of concern is in the amendments which have been drafted but not offered. The amendments would allow the defendant, after the assessment, to obtain a second opinion. In the smaller communities, the state would need to approve additional counselors who are professionally qualified. The magistrates do like the one year jurisdiction on the persons who have been sentenced.

Candace Payne, Rimrock Foundation, related that she has been working with **Ms. Lane** on amendments to this bill. She added that even with the amendments, there are problems with the bill. The providers cannot support this legislation. She asked that the bill be placed in a subcommittee.

Mike Ruppert, Executive Director of the Boyd Andrew Chemical Dependency Care Center, remarked that he is also a member of the DUI Task Force. When the bill left the DUI Task Force, it was totally bungled. With the amendments, the bill is a total mess. He asked that the bill be tabled. The parties who have a stake in this matter need to understand everything involved.

Joan Cassidy, President of Montana Addiction Service Providers, stated that they support the concepts of pre-sentence and looked at the jurisdiction extending to one year. There are concerns with the language. They are willing to continue working to clean up the language to provide clarity.

Chris Johnson, Acting Director of Lake County Chemical Dependency Program, explained that she supported the concepts of the bill but was concerned that the language may have far reaching effects and cause harm to the smaller programs in rural areas.

Questions from Committee Members and Responses:

CHAIRMAN GROSFIELD asked for more information regarding the problems with the bill. **Ms. Cassidy** responded that the language in the amendments needs to be clarified.

CHAIRMAN GROSFIELD asked that the amendments, **EXHIBIT(1)**, be distributed with the understanding that **SEN. HALLIGAN** is not offering the amendments at this time. **Ms. Lane** explained that LC777 showed the proposed §61-8-732.

Ms. Cassidy explained that the program providers wanted to make sure the language is clear regarding the assessment. If the judge does not choose the sentence option prior to sentencing, that assessment continues to be a part of the Assessment Course of Treatment (ACT). This needs to be continued as a state approved program as is currently the status.

There is a grave concern that in rural Montana, the second opinions need to be accessible to the offender. On page 2, section 4, of LC7777, "A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a licensed program or a program approved by the department of public health and human services." Currently, the state approved programs are under the Department

of Health and Human Services. The concern is, what is a "licensed program"? For instance, in Scobey there is a state approved program, but it is not a licensed program. Would the defendant need to travel 200 to 300 miles to have the second opinion? Also, in Butte they have numerous certified chemical dependency counselors who are not working within a state approved facility. The defendant would not have the option of going to the certified counselor, but would need to go to a licensed program. There is no definition of a licensed program within the state.

CHAIRMAN GROSFIELD questioned whether this could be addressed by the language "licensed program or a program approved by the department of public health and human services or a licensed chemical dependency counselor." **Ms. Cassidy** agreed this would address the second issue. She added that the first issue is to make very clear that on a pre-sentencing assessment if the judge does not chose the option of pre-sentence assessment, the assessment is automatically completed as a part of the ACT Program.

Mr. Ruppert remarked that extending the jurisdiction is a good idea. The idea of pre-assessment is also a good idea. The problem with the bill is that, as originally introduced, it mandates pre-assessment. This doubles the appearances of all DUI offenders in front of the court and doubles the admissions of all DUI offenders into their program. Both of these circumstances are a big deal. The amendments change the mandatory pre-assessment to optional, which is a good thing. The bill, as introduced, was very different from the decisions of the DUI Task Force. He would like to have the language clarified. He suggested tabling the bill and allowing the DUI Task Force to come up with a final product.

Ms. Payne explained the term "licensed program" was brought up in the memorandum from **Peg Shea.** Attached to this was a memorandum from **Al Goke, Chief of the Traffic Safety Bureau**, which contained five items that needed to be in the bill. Item (e) states that the language needed to be changed to read, "licensed or state approved programs".

Ken Mordan, Chemical Dependency Officer at the Department of Public Health and Human Services, explained that the licensure issue was a concern of the Task Force when this bill addressed pre-assessment. The existing law allows the second opinion and the treatment to be provided by a state certified chemical dependency counselor. The Task Force wanted to change this back to the circumstances prior to 1991, which would only allow state approved programs to provide the second opinion and the treatment. There was a concern from one of the programs, St.

Patrick's in Missoula, that as a licensed hospital program under the Joint Commission of Hospitals, they are not state approved. Licensed facilities include Benefis in Great Falls, Northern Montana in Havre, and Pathways in Kalispell.

Mona Jamison, Montana Association of Addiction Providers, added that regarding the issue of licensure, the drafting is not as precise as necessary. Her understanding is that there is no state licensure program, per se. Hospitals under JCHO, have a license for certain certification to these hospital-based programs. These programs are legitimate. The word "licensure" does not connect to a statute.

Closing by Sponsor:

SEN. HALLIGAN summarized that the assessment issue is a good idea and there should be only one assessment. The one year jurisdiction is also a good idea. Agreement needs to be reached on the licensure and/or certified counselor language.

CHAIRMAN GROSFIELD summarized that he did not favor appointing a subcommittee on this matter due to time constraints this close to the transmittal date. He asked the parties to work together on the issues.

Additional handout - written testimony of **Brenda Nordlund, Department of Justice, EXHIBIT(2).**

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 2-11-99
SB NO. SB 251

Amendments to Senate Bill No. 251
1st Reading Copy

Requested by Senator Mike Halligan

For the Senate Judiciary Committee

Prepared by Valencia Lane
February 1, 1999

1. Title, line 9.
Following: "61-8-410,"
Insert: "61-8-714,"

2. Page 2, line 3.
Strike: "a chemical dependency education"
Insert: "an alcohol and other drug information"

3. Page 2, line 10 through line 11.
Strike: "chemical dependency education"
Insert: "alcohol and other drug information"

4. Page 3, line 12.
Strike: "chemical dependency education"
Insert: "alcohol and other drug information"

page 3, line 13
5. "chemical dependency" "alcohol or drug"

5. Page 3, line 22.
Insert: "**Section 3.** Section 61-8-714, MCA, is amended to read:

"**61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense.** (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 60 days and shall be punished by a fine of not less than $100 or more than $500. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of an alcohol or drug treatment program by the defendant.

(2) On a second conviction, the person shall be punished by a fine of not less than $300 or more than $500 and by imprisonment for not less than 7 days or more than 6 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home

arrest. Three days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial 3 days of the imprisonment term, the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of an alcohol or drug treatment program by the defendant.

(3) On the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than $500 or more than $1,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of an alcohol or drug treatment program by the defendant."

{Internal References to 61-8-714:

ok 61-8-401	*ok 61-8-401*	*ok 61-8-410*	*ok 61-8-442*
ok 61-8-731	*ok 61-8-732*	*ok 61-8-732*	*ok 61-8-732*
ok 61-8-733	*ok 61-8-734*	*ok 61-8-734*	*ok 61-8-734*
ok 61-8-734	*ok 61-8-734*	*ok61-8-734}"*	

Renumber: subsequent sections

6. Page 5, line 10.
Strike: "chemical dependency"
Following: "assessment"
Insert: "and education"
Following: "(1)"
Strike: "(a)"

7. Page 5, line 11.
Strike: "Before a sentence is imposed under"
Insert: "In addition to the punishments provided in"

8. Page 5, line 12.
Following: "complete"
Insert: ":
(a)"

9. Page 5, line 13 through line 14.
Following: "assessment" on line 13
Strike: remainder of line 13 through "services" on line 14

10. Page 5, line 15.
Following: "~~both~~"

Insert: ", which must be part of an alcohol and other drug information course;

(b) an alcohol and other drug information course; and

(c) on a second or subsequent conviction for a violation of 61-8-401 or 61-8-406 or as required by subsection (8) of this section, alcohol or drug treatment.

(2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

(3) The chemical dependency assessment, the alcohol and other drug information course, and alcohol or drug treatment must be completed at a licensed treatment program or a treatment program approved by the department of public health and human services and must be conducted by a certified chemical dependency counselor. The defendant may attend the program of the defendant's choice as long as the program is licensed or approved as required by this subsection. The defendant shall pay the cost of the assessment, ~~and~~ the information course, and alcohol or drug treatment. The department of public health and human services shall adopt rules pertaining to the payment of costs.

(4)"

11. Page 5, line 16 through line 18.
Following: "both." on line 16
Strike: remainder of line 16 through "cost." on line 18

12. Page 5, line 19.
Following: "by a"
Insert: "licensed program or a"

13. Page 5, line 20 through line 22.
Following: "services." on line 20
Strike: remainder of line 20 through "both." on line 22

14. Page 5, line 23 through line 29.
Strike: line 23 through "services." on line 29
Insert: "(5)"

15. Page 6, line 6.
Strike: "(c)"
Insert: "(6)"

16. Page 6, line 7 through line 8.

Strike: "a chemical dependency education"
Insert: "an alcohol and other drug information"

17. Page 6, line 9.
Strike: "education"
Insert: "information"

18. Page 6, line 10.
Strike: "(d)"
Insert: "(7)"

19. Page 6, line 13.
Strike: "(2)"
Insert: "(8)"

20. Page 6, line 14.
Strike: "Upon"
Insert: "Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of 61-8-401 or 61-8-406 upon"

21. Page 6, line 14 through line 15.
Following: "finding" on line 14
Strike: remainder of line 14 through "report" on line 15

22. Page 6, line 17 through line 18.
Following: "services" on line 17
Strike: remainder of line 17 through "61-8-406" on line 18

23. Page 6, line 19 through line 23.
Strike: subsection (3)(a) in its entirety

24. Page 6, line 24.
Strike: "(b) (i)"
Insert: "(9) (a)"
Following: "conviction"
Insert: "or after treatment required under subsection (8)"

25. Page 6, line 25.
Strike: "(1)"
Insert: "(5)"

26. Page 6, line 27.
Strike: "(ii)"
Insert: "(b)"
Following: "subsection"
Strike: "(3)(b)(i)"
Insert: "(9)(a)"

27. Page 6, line 28.
Following: the first "sentence,"
Insert: "if any,"

28. Page 7, line 18.
Strike: "a chemical dependency education"
Insert: "an alcohol and other drug information"

- END -

**** Bill No. ****

Introduced By **********

By Request of the *********

A Bill for an Act entitled: "An Act ."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-732, MCA, is amended to read:

"**61-8-732. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- ~~alcohol information course~~ assessment and education required.** (1) ~~(a)~~ In addition to the punishments provided in 61-8-714, 61-8-722, and 61-8-731, regardless of disposition, a defendant convicted of a violation of 61-8-401 or 61-8-406 shall complete:

must

(a) a chemical dependency assessment, which ~~should~~ be part of an alcohol and other drug information course;

(b) an alcohol and other drug information course; and

(c) on a second or subsequent conviction for a violation of 61-8-401 or 61-8-406 or as required by subsection (8), alcohol or drug treatment.

(2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

(3) The chemical dependency assessment, the alcohol and

other drug information course, and alcohol or drug treatment must be completed at ~~an alcohol~~ a licensed treatment program or a treatment program approved by the department of public health and human services~~, which may include alcohol or drug treatment, or both~~ and must be conducted by a certified chemical dependency counselor. The defendant may attend the program of the defendant's choice as long as the program is licensed or approved as required by this subsection. The defendant shall pay the cost of the assessment and the information course. The department of public health and human services shall adopt rules pertaining to the payment of costs.

(4) The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a licensed program or a program approved by the department of public health and human services.

~~(b) As long as the alcohol information course is approved as provided in this section and the treatment is provided by a certified chemical dependency counselor, the defendant may attend the information course and treatment program of the defendant's choice.~~

(5) The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug problem, or both, as determined by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human

services. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

~~(c)~~(6) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in an alcohol and other drug information course or treatment program. If the defendant fails to attend the information course or treatment program, the counselor shall notify the court of the failure.

~~(d)~~(7) A court or counselor may not require attendance at a self-help program other than at an "open meeting" as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

~~(2)~~(8) Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of 61-8-401 or 61-8-406 upon a finding of chemical dependency made by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

~~(3) (a) On conviction of a second or subsequent offense under 61-8-714 or 61-8-722 for a violation of 61-8-401 or 61-8-406, in addition to the punishment provided in 61-8-714 or 61-8-722, regardless of disposition, the defendant shall complete an alcohol information course at an alcohol treatment program approved by the department of public health and human services,~~

~~which must include alcohol or drug treatment, or both.~~

~~(b) (i)~~ (9) (a) On a second or subsequent conviction or after treatment required under subsection (8), the treatment program provided for in subsection ~~(1)~~ (5) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

~~(ii)~~(b) If a defendant fails to comply with the monitoring program imposed under subsection ~~(3)(b)(i)~~ (9)(a), the court shall revoke the suspended sentence, if any, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 6 months."

{*Internal References to 61-8-732:*
*61-8-401** *61-8-401** *61-8-406** *61-8-731*
61-11-101}

- END -

{Name : Valencia Lane
Title : Staff Attorney
Agency: LSD
Phone : 444-3064}

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 9
DATE 2/11/9
SB 251

MONTANA STATE SENATE

+++++ WITNESS STATEMENT +++++

NAME Brenda Nordlund

ADDRESS MT Dept of Justice

HOME PHONE: _____ WORK PHONE: 444-2713

REPRESENTING MT Dept of Justice

APPEARING ON WHICH PROPOSAL ? SB251

DO YOU: SUPPORT X OPPOSE _____ AMEND X

COMMENTS:

(1) Support clarification of the law that assessment is required as part of DUI or per se sentence.

(2) Support amendment to allow pre-sentencing assessment of Defendant at the court's discretion.
<Amendment #10 - insert (2)>

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
1999 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL

DATE 2-11-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. SUE BARTLETT	✓		
SEN. STEVE DOHERTY	✓		
SEN. DUANE GRIMES	✓		
SEN. MIKE HALLIGAN	✓		
SEN. RIC HOLDEN	✓		
SEN. REINY JABS	✓		
SEN. WALT MC NUTT	✓		
SEN. AL BISHOP,VICE CHAIRMAN	✓		
SEN. LORENTS GROSFIELD, CHAIRMAN	✓		

DATE 2 - 11 - 99

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: S.B. 251 S.B. 390

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Chuck Brooks	442-2405	Bill Leg. Committee	SB 25	✓	
Harold Hanan	255-7163	state DUI Task Force	SB 251		
Tom Murphy	721-9155	Injured workers	SB 390	✓	
Richard Doyle	7365412	Injured Workers	SB 390	✓	
Dolores Olguin	4539427	Injured Worker	SB 390	✓	
Carol Ramberg	378-2381	Injured Worker	SB 390	✓	
Robert C Kemp	452-7430	Injured workers	SB 390	✓	
Al Smith	443-3124	MTLA	SB 390	✓	
George Wood	(406) 549-8849	Mt. Self Insurers Assn	SB 390		✓
Nancy Butler	444-7725	State Fund	SB 390		✓
Mike Ruppert	443-2343	Boyd Andrew COC	251		X
Bob Worthington	443-0907	MT Inj	SB 390		X
Dan Judge	442-1708	MT STATE AFL-CIO	SB 390	✓	

~~Steve~~

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE_____

SENATE COMMITTEE ON_____

BILLS BEING HEARD TODAY:_____

_____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE	
Jacqueline Lynmark	2-0230	Am. Ins. Assn	SB390		✓	
Brenda Nordlund	4-2713	Justice Dept	SB250	Am		
MARK CADWALLADER	4-0280	DEPT OF LABOR	SB 390			info only

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Motion/Vote: **SEN. HALLIGAN** moved that **SB 243 DO PASS AMENDED.** **The motion carried unanimously - 7-0.**

EXECUTIVE ACTION ON SB 251

Motion: **SEN. HALLIGAN** moved that **SB 251 BE TABLED.**

Discussion:

CHAIRMAN GROSFIELD related that he was disappointed in the hearing. This bill contains several good ideas. The proponents fell apart because they couldn't agree on a word or two. He requested that the table motion be put on hold for awhile.

SEN. HALLIGAN withdrew his motion.

SENATORS DOHERTY and **HOLDEN**, excused earlier, now present at the meeting.

{Tape : 1; Side : A; Approx. Time Counter : 8.18}

EXECUTIVE ACTION ON SB 16

Ms. Lane explained that the amendments involved two alternatives. The amendment - SB001605.avl, **EXHIBIT(2)**, is a substitute bill which would provide limited liability for governmental entities only. In the amendment - SB001604.avl, **EXHIBIT(3)**, Section 1 is identical to Section 1 in the other amendment and then Section 2 is added which is non-governmental limited liability. The hospital issue is covered in Section 1 in both amendments. In (1) it states "(1) Except as provided in subsection (2), a governmental entity . . . or a health care facility, as defined in 50-5-101". This is added to governmental immunity which is immunity and not just limited liability. Subsection (2) of the new Section 1 states that this does not apply to a health care facility if death or bodily injury results from the failure or malfunction.

Motion: **SEN. GRIMES** moved to **AMEND SB 16 - SB001605.avl.**

Discussion:

Jeff Brant, Chief of Policy Development, Customer Relations Bureau, Information Services Division, related that they saw that a number of states were looking into addressing the Y2K problem with legislation in regard to immunity. Some of the changes were not anticipated and go back to 20 years ago. They believe that they should not be required to pay twice for those potential liability problems that may occur.

MONTANA SENATE
1999 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL

DATE 2-12-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. SUE BARTLETT	✓		
SEN. STEVE DOHERTY	✓		
SEN. DUANE GRIMES	✓		
SEN. MIKE HALLIGAN	✓		
SEN. RIC HOLDEN	✓		
SEN. REINY JABS	✓		
SEN. WALT MC NUTT	✓		
SEN. AL BISHOP,VICE CHAIRMAN	✓		
SEN. LORENTS GROSFIELD, CHAIRMAN	✓		

awaiting the accompanying bills. Those bills may need to meet the transmittal deadline.

Motion/Vote: **SEN. HALLIGAN** moved that **HB 41 BE TABLED. Motion carried unanimously - 8-0.**

SEN. HALLIGAN clarified that HB 41 was tabled in an attempt to leverage the House to send the other bills. The Committee is supportive of the bill and will work very hard to pass the same.

CHAIRMAN GROSFIELD added that HB 49 was tabled in House Appropriations on January 26th.

EXECUTIVE ACTION ON HB 251

Motion: **SEN. HALLIGAN** moved that **SB 251 BE AMENDED - SB025105.avl, EXHIBIT(2).**

Discussion:

Ms. Lane explained that **SB0025106.avl, EXHIBIT(3),** is a substitute bill. Everything after the enacting clause would be eliminated. It would amend two sections only, Sections 61-8-714 and 61-8-732. This would accomplish the minimum that the DUI Task Force would like to see this legislature provide. This would be to extend the court's supervision of a DUI offender up to one year. The other amendment would address 61-8-732 and would clarify existing law in that an assessment is required and a judge in his or her discretion could require the defendant to complete the chemical dependency assessment before he sentenced the defendant. This would be discretionary.

The amendments, SB025105.avl, are the consensus amendments. No one objects to these amendments. All concerns have been incorporated and the amendments were distributed to interested parties. She has not heard from anyone that they are opposed to the amendments. This would allow the one year extension of supervision of the court. The rest of the amendments address Section 61-8-732. This clarifies that an assessment is necessary and required. It would be in the judge's discretion to do this before sentencing. The licensing language has been eliminated. Also, a second assessment could be done by a chemical dependency counselor and not a licensed facility or program.

Vote: **The motion carried unanimously - 8-0.**

Motion/Vote: **SEN. HALLIGAN** moved that **SB 251 DO PASS AS AMENDED. Motion carried unanimously - 8-0.**

SB 236 SPONSOR: Doherty, Steve SHORT TITLE: Revise criminal syndicalism law
REFERRED ON: 02/16/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred -- VOTE: 17 - 3
FINAL DISPOSITION 04/20/1999 Chapter Number Assigned

SB 243 SPONSOR: Thomas, Fred SHORT TITLE: Revise extended jurisdiction prosecution act; youth sentencing provisions
REFERRED ON: 02/16/1999 HEARD ON: 03/09/1999
EXECUTIVE ACTION: 03/10/1999 Bill Concurred as Amended -- VOTE: 13 - 7
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned

SB 250 SPONSOR: Bartlett, Sue SHORT TITLE: Repeal extended jurisdiction prosecution act
BY REQUEST OF: (S) Judiciary Standing Committee
REFERRED ON: 02/16/1999 HEARD ON: 03/09/1999
TABLED ON: 03/10/1999
FINAL DISPOSITION 04/22/1999 (H) Died in Standing Committee

SB 251 SPONSOR: Halligan, Mike SHORT TITLE: Clarify assessment of chemical dependency prior to sentencing of DUI
REFERRED ON: 02/20/1999 HEARD ON: 03/22/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred as Amended -- VOTE: 19 - 1
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned

SB 257 SPONSOR: Grimes, Duane SHORT TITLE: Revise sex offender laws
REFERRED ON: 02/16/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred -- VOTE: 20 - 0
FINAL DISPOSITION 04/12/1999 Chapter Number Assigned

SB 258 SPONSOR: Grimes, Duane SHORT TITLE: Revise domestic abuse laws
REFERRED ON: 02/16/1999 HEARD ON: 03/12/1999
EXECUTIVE ACTION: 03/25/1999 Bill Concurred as Amended -- VOTE: 18 - 2
FINAL DISPOSITION 04/16/1999 Chapter Number Assigned

SB 271 SPONSOR: Taylor, Mike SHORT TITLE: Employer immunity for disclosures about former or current employees
REFERRED ON: 03/02/1999
FINAL DISPOSITION 05/07/1999 Chapter Number Assigned